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C.K.B., by and through her next friends R.T.B. and
C.L.B.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

C.K.B. (a minor)
by and through her next friends R.T.B. (father)
and C.L.B. (mother),

Plaintiff,

v.

DIXIE SCHOOL DISTRICT,

and

THOMAS J. LOHWASSER,
in his individual and official capacity as
superintendent of the Dixie School District,

and

PATRICIA F. ELLIOT,
in her individual and official capacity as principal
of Dixie Elementary School and Miller Creek
Middle School,

and,

GREG JOHNSON,
in his individual and official capacity as former
principal of Miller Creek Middle School.

Defendants.

No. 12cv2556 RS (DMR)

**STIPULATION AND ~~PROPOSED~~
ORDER RE PLAINTIFF'S PROPOSED
THIRD AMENDED COMPLAINT AND
BRIEFING SCHEDULE RE
DEFENDANTS' MOTION TO DISMISS**

1 The parties to this action, through their respective attorneys of record herein, enter into this
2 Stipulation subject to the Court's approval, with reference to the following circumstances:

3 1. On January 24, 2013, Defendants filed a motion to dismiss Plaintiff's Second
4 Amended Complaint ("Motion") [Dkt. No. 32]. Plaintiff's Opposition is currently due Thursday,
5 February 7, 2013. Defendants' Reply is currently due Thursday, February 14, 2013. The hearing
6 on the Motion is currently scheduled for Thursday, February 28, 2013 at 1:30 p.m.

7 2. Although Plaintiff believes the Second Amended Complaint adequately states a
8 claim upon which relief can be granted, Plaintiff also believes it would be more expedient to amend
9 the complaint to add the detail that Defendants contend is lacking.

10 3. Defendants are willing to consider withdrawing their Motion on the condition that
11 they are first given an opportunity to review Plaintiff's Third Amended Complaint before it is filed.

12 4. The parties are willing to extend the briefing schedule and postpone the hearing on
13 Defendants' Motion by two weeks to allow Plaintiff the opportunity to prepare, and Defendants to
14 consider, Plaintiff's proposed Third Amended Complaint.

15 Accordingly, IT IS HEREBY STIPULATED AND AGREED between the parties, pursuant
16 to Local Rules 6-1(a), 6-2, and 7-12, that:

17 1. On or before Thursday, February 7, 2013, Plaintiff shall provide Defendants a copy
18 of her proposed Third Amended Complaint.

19 2. On or before Monday, February 11, 2013, Defendants shall inform Plaintiff whether
20 they will either (a) stipulate that Plaintiff may file the Third Amended Complaint, or (b) keep their
21 Motion to Dismiss on file.

22 3. If Defendants stipulate that Plaintiff may file the Third Amended Complaint,
23 Plaintiff shall file it on Monday, February 11, 2013, and Defendants shall withdraw their Motion.

24 4. If Defendants do not so stipulate, and instead choose to keep their Motion on file,
25 then the briefing schedule shall be extended by two weeks as follows: Plaintiff's opposition due on
26 Thursday, February 21, 2013; Defendants' reply due Thursday, February 28; Hearing on Thursday,
27 March 14, 2013 at 1:30 p.m.
28

1 5. The foregoing shall be without prejudice to Plaintiff's right to seek leave of the
2 Court to file the Third Amended Complaint in the event Defendants do not stipulate to its filing on
3 Monday, February 11, 2013, and it shall also be without prejudice to Defendants' right to oppose
4 such a request, if any.

5 **IT IS SO STIPULATED.**

6 Dated: February 1, 2013

ARNOLD & PORTER LLP

8 By: /s/ Trenton H. Norris

9 Trenton H. Norris
Attorneys for Plaintiff

11 Dated: February 1, 2013

STUBBS & LEONE

13 By: /s/ Claudia Leed

14 Claudia Leed
Attorneys for Defendants

16 Pursuant to General Order No. 45, § X-B, the filer attests that the concurrence in the filing
17 of this document has been obtained from the above signatories.

18 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

21 Dated: February 1, 2013

20 

Hon. Richard G. Seeborg

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